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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/580,255

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Ake Sjoberg

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NOVAK, DRUCE + QUIGG L.L.P. - PERGO

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EXAMINER

MUSSER, BARBARA J

ART UNIT

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1791

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/580,255	<b>Applicant(s)</b> SJOBERG, AKE	
	<b>Examiner</b> BARBARA J. MUSSER	<b>Art Unit</b> 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, it is unclear if the "decorative layer" of step c) is the decorative sheet of step b). For the purposes of examination, they are assumed to refer to the same sheet.

Regarding claim 7, it is unclear if the "decorative layer" is the decorative sheet or the decorative layer of claim 1.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 7, 8, 15, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Drees et al.(U.S. Publication 2002/0146954A1).

Drees et al. discloses it is known to make a decorative laminate by applying a decorative sheet and a protective wear layer to a core material of particleboard or MDF, and then heating and bonding in a laminate press which bonds the layers

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together.([0004]-[0005]) The claim does not restrict the surface structure from being a smooth structure so when the press bonds the layers together, it imparts this surface structure to the decorative sheet.

Regarding claims 7 and 8, Drees et al. discloses the decorative and protective layers can be impregnated with melamine formaldehyde resin.[0008] Both layers are made of cellulose.[0006]

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 7-10, 15, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drees et al. in view of Chen '678.

In the event that the surface of the particleboard of Drees et al. cannot be considered a surface structure and that a smooth surface is also not a surface structure, the following rejection applies.

Drees et al. does not disclose embossing a pattern into the particleboard core. Chen et al. '678 discloses it is known in the decorative laminate arts to use a core with an embossed surface.([0002];[0022]) It would have been obvious to one of ordinary skill in the art at the time the invention was made to emboss the core of Drees et al. since Chen et al. '678 shows this is a known feature in decorative laminates which would allow the pattern to be in register with the printed design layer.[0020]

Regarding claims 9 and 10, Chen et al. '678 discloses that aluminum oxide particles with a particle size of 20-200 nanometers can be present in the wear layer.[0031] It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the particles of Chen et al. '678 in the wear layer of Drees et al. to provide improved resistance to wear.[0031]

7. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Drees et al. and Chen et al. '678 as applied to claim 1 above, and further in view of O'Brien et al.(U.S. Patent 6,551,678).

The references cited above do not disclose how the embossing of the core occurs. O'Brien et al. shows it is known to machine a pattern into a substrate.(Col. 10, ll. 20-25) It would have been obvious to one of ordinary skill in the art at the time the invention was made to machine the pattern into the core of Drees et al. and Chen et al. '678, or Chen et al. '678 since O'Brien et al .shows this is a known method of applying a pattern to a substrate.(Col. 10, ll. 20-25)

8. Claims 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drees et al. and Chen et al. '678 as applied to claim 1 above, and further in view of Duvall.(U.S. Patent 2,803,188).

The references cited above do not disclose how the embossed pattern is applied to the core. Duvall discloses it is known to apply a pattern to a fiberboard core by spraying the core with water and then embossing it between a patterned roller and a counter roller.(Figure; Col. 3, ll. 35-50) It would have been obvious to one of ordinary skill in the art at the time the invention was made to emboss the fiberboard core of

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Drees et al. and Chen et al. '678 or Chen et al. '678 by spraying the core with water and then embossing it between a patterned roller and a counter roller(Figure; Col. 3, ll. 35-50) since this cause the surface of the board to yield readily to the embossing pressure. Water is considered a solvent.

9. Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drees et al. or Drees et al. and Chen et al. '678 as applied to claim 1 above, and further in view of Cannady, Jr. et al.(U.S. Patent 3,948,713).

The references cited above do not disclose the specifics of the bonding of the layers together in the press. Cannady, Jr. et al. discloses a method of making multiple decorative laminates where a pattern is applied to the surface of the wear layer using a metal foil which is cushioned from the surface of the press via a support layer(11). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a metal foil with a cushion to apply a pattern to the surface of the decorative laminate since this is a well-known method of applying texture to the surface of a laminate as shown for example by Cannady, Jr. et al.(Figure; Col. 2, ll. 36-Col. 3, ll. 41)

Regarding claim 13, since the metal foil can be only 0.0003 inches thick, any pattern on it would e considered a micro structure.(Col. 3, ll. 40-41)

### ***Response to Arguments***

10. Applicant's arguments filed 6/15/10 have been fully considered but they are not persuasive.

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Regarding applicant's argument that Drees et al. uses PETG as the substrate and sands the laminate, examiner is not using the invention of Drees et al., but rather the admitted prior art which discloses using particle board as a core.[0004].

Regarding applicant's argument that Chen et al. does not use a decorative sheet but prints on the embossed surface, the reference shows it is known to emboss cores for decorative laminates. While the reference prints on the embossed core, this does not mean the concept of an embossed core cannot be used in other types of surface laminates having cores. This is an alternative to embossing the surface of the wear layer.

### ***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to BARBARA J. MUSSEY whose telephone number is (571)272-1222. The examiner can normally be reached on Monday-Thursday; alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571)-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BJM

/B. J. M./

Examiner, Art Unit 1791

/Richard Crispino/

Supervisory Patent Examiner, Art Unit 1791